

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BROTHER'S MINI MARKET INC. et al.,

Plaintiffs,

-v-

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,

Defendant.
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23-CV-10646 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On February 16, 2024, Defendant filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.


Accordingly, it is hereby ORDERED that, notwithstanding the briefing schedule adopted on January 30, 2024, ECF No. 14, Plaintiffs shall file any amended complaint by **March 8, 2024**. Plaintiffs will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Plaintiffs do amend, by three (3) weeks after the amended complaint is filed, Defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If Defendant files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendant files a new motion to dismiss or indicates that it relies on its previously filed motion to dismiss, any opposition shall be filed **within four weeks**, and any reply shall be filed **within three weeks** of any opposition.

If no amended complaint is filed, the existing briefing schedule shall remain in effect, pursuant to which Plaintiffs shall file any opposition to the motion to dismiss by **March 20, 2024**, and Defendant shall file any reply by **April 5, 2024**. See ECF No. 14.

SO ORDERED.

Dated: February 20, 2024
New York, New York



JESSE M. FURMAN
United States District Judge